

MINUTES
HAMPTON ZONING BOARD OF ADJUSTMENT
THURSDAY, January 19, 2006

MEMBERS PRESENT: Robert V. Lessard, Chairman
Tom McGuirk
Jack Lessard (sitting in for Jennifer Truesdale)
Matt Shaw
Bill O'Brien

OTHERS PRESENT: Kevin Schultz, Building Inspector
Shirley Doheny, Recording Secretary

Vic Lessard stated that petition 06-06 has been withdrawn and announced the format of the meeting.

01-06 The petition of George O'Connor for property located at 15 Perkins Avenue seeking relief from Articles 1.3, 4.1.1, 4.5.1 and 4.5.2 to allow the addition of a second and third (dormered) story to the existing one level building in order to accommodate a second dwelling unit as well as a 10' deck to act as a secondary means of egress for each floor. This property is located at Map 293, Lot 25 in a RB zone.

George O'Connor came forward. He would like to add a second and third story to his building. He submitted pictures of the current building and pictures of the proposed building.

Questions from the Board

Matt Shaw clarified that Mr. O'Connor was planning to go up two stories where it presently sits and asked about the foundation. Mr. O'Connor stated that an engineer had looked at the foundation and with some modification it would support the proposed building. Mr. O'Brien asked about the front stairs and the rear setback.

Comments from the audience

Carol Cheney of 17 Johnson Ave. abuts Mr. O'Connor. She is in favor of the petition.

Back to Board

Vic Lessard asked where the steps would be put. Mr. O'Connor stated they would be on the corner. He will be adding an additional riser. He is taking down the stairs. The Board asked if the steps could be recessed. Tom McGuirk agrees with Matt regarding the stairs being recessed inside. Vic Lessard stated that there can only be two apartments not another one in the attic. Mr. O'Connor read the criteria as proposed in the petition. Mr. Lessard asked about #4. Bill O'Brien asked if the applicant will delete the second sentence in #4. Mr. O'Connor agreed. Mr. Lessard polled the Board regarding the five criteria. Mr. O'Brien motioned to approve the petition subject to the condition that it is only two units contained within the property and that all setbacks are as depicted on the plan except the front where there will be a 4 foot set back and that the stairs will be contained within the porch area and the parking spaces will be numbered. Jack Lessard seconded.

Vote: 5-0

Petition Granted

02-06 The petition of Thomas Burness for property located at 31 Park Avenue seeking relief from Articles 4.2 and 4.3 to subdivide a 40,934 square foot lot into two (2) lots, one having frontage on Park Avenue and the other having frontage on Lafayette Road, meeting all of the dimensional requirements, but where the Lafayette Road lot is not accessible other than from Park Avenue. This property is located at Map 190, Lot 12 in a RA and G zones.

Peter Saari came forward with Mr. Burness. This lot is a long narrow lot just under an acre. He wants to subdivide the lots. One lot will have frontage on Lafayette Road which is a limited access highway. The other will be on Park Ave. The lot has enough land but because of its shape it needs variances. The other problem with the lot is the wetlands in the center of the lot. Mr. Saari went through the criteria as presented in the petition.

Questions from the Board

Tom McGuirk would prefer a fee interest rather than a right of way. Jack Lessard agrees. Bill O'Brien asked if a stipulation could be added to be only a single family. The neighborhood is primarily single family houses. Matt Shaw asked about the square. Mr. McGuirk asked about which address he would have to use.

Comments from the audience

Peter Janetos of 28 Park Ave came forward. He supports the proposition. He believes it would be an improvement to the neighborhood. Mrs. Janetos agreed and is glad to see young families coming to the neighborhood.

Back to Board

Mr. Lessard polled the Board about the criteria. Mr. Shaw agrees. Mr. O'Brien read a letter that was submitted by T. Olbres abutter at 212 Lafayette Road. Questions arose regarding whether or not the State of NH is an abutter. Kevin Schultz asked if there was a reason why they didn't subdivide into two lots and make the access way part of the rear lot. Vic Lessard asked if they all agreed if the abutters have been notified. Kevin Schultz believes that a lot line adjustment would be a cleaner way to do this. Matt Shaw would rather see them withdraw and come back.

Jack Lessard Motioned to allow withdrawal without prejudice. Matt Shaw seconded

Vote: 5-0

Motion to withdraw Granted

60-05 The rehearing of the petition of Jean Boudreau, through option holder M.K. Ashworth LLC, for property located at 154-156 Ashworth Avenue seeking relief from Articles 4.1.1, 8.2.1, 8.2.2, 8.2.3, 8.2.4, 8.2.5 and 8.2.6 to construct a seven (7) unit residential condominium, existing home and motel to be demolished. This property is located at Map 293, Lots 92 and 110 in a BS zone.

Steve Ells came forward with Kevin Derrivan. Mr. Ells stated there will be three units on the second floor, four units spread over third, fourth and fifth floors. They do not meet the density requirements. They also need relief from article 8. It is an allowed use. The two lots together are still insufficient to meet setback requirements. There will be two parking spaces per unit on the property. Mr. Ells went through the criteria as submitted in the petition.

Questions from the Board

Bill O'Brien asked about a four foot setback on the left side. It is a typo and should be 9.5 feet instead of 4.5 feet. The first floor is a parking area and is open and fenced in. Mr. O'Brien asked

about the elevator mechanics. Mr. Lopatich stated that it will be adjacent to elevator. The elevator overrun is not over the 50 feet height. There is concrete between parking deck and second floor and engineered wood between all of the other floors. Mr. O'Brien confirmed they will not need to come again for more room between the floors. Mr. O'Brien asked about the roof deck. Mr. Lopatich stated it is open area, the rest is mechanical and storage and circulation and a recreation enclosed area. Mr. O'Brien stated approximately 75% of roof deck is enclosed.

Comments from the audience

Stan Wojcik of 6 Bragg Ave came forward. He asked why they were back here. Mr. Lessard explained that the Board granted a rehearing. This is the third time back here. Each prior time the building was too big. He asked why not put duplexes like everyone else. They don't meet the recreation requirement. He believes it would harm the abutters. He believes nothing has changed. He believes it will stick out like a sore thumb. Mr. Wojcik presented pictures showing his deck and the sun. Mr. Ells believes there is a tiny encroachment onto this property from the Bragg house. Mr. Wojcik is concerned about the parking on the corner lot. He is also concerned about losing the sun from his lot. All he will see is a big building from both decks. He is also concerned about the fire hazards and whether or not we have a ladder truck that will take care of a fire. If he gets mold does he have any recourse. Mr. Wojcik stated that at the last hearing someone stated that the building does not meet any criteria. The Board didn't accept the letter from the realtor that he submitted at the last hearing, he explained that he went to him because he was the person he went to before. He thinks the building is too big for the size of the lot.

Pam Auch of 8 Bragg Ave came forward. She doesn't believe it meets the criteria for a hardship. It doesn't meet any of the criteria for multi-family dwellings and the parking problem on the Bragg house. She asked about where the trash will go. Mr. Derrivan stated it will be on the rear right in the parking area. She is also concerned about water runoff. Vic Lessard said they have to keep the water on their property. Mr. Ells stated it will remain on their property. Pam is concerned about the sunlight. She just spent money to put on a deck and this building will take away her sunlight. She is in favor of improvement but hopes that they might reconsider the size of this project for the lot.

Back to Board

Vic Lessard asked if Mr. Ells had any response. He doesn't believe taking down a dilapidated building will hurt the neighborhood. He believes it is reasonable for this Board to grant variances. He believes it will be an improvement to the property. He also believes that this will force a solution for the parking of the Bragg house. Matt Shaw asked why they don't buy the third lot. Mr. Ells responded it is not economically feasible. Bill O'Brien asked about roof deck at 38 foot mark where the corners are open. Mr. O'Brien suggested that if the roof was pitched in and the corners were open it would allow light in sooner and quicker. The mechanical rooms can be reduced in order to reduce the area of the roof. Mr. Lopatich stated he could reduce the mass of the built area possibly about 25%. Mr. O'Brien also asked about parking spots, especially the ones that are outside. He asked about the possibility of six units instead of seven. Jack Lessard likes four stories. The fifth story overwhelms everything. Tom McGuirk asked for an abutters' map. Mr. McGuirk clarified that there would be a loss of sunlight regardless of the size of the building. They will only lose sunlight in the back of the house for part of the day. Mr. McGuirk stated that this petitioner can't be held accountable for the parking on the Bragg house. He doesn't believe it will devalue the surrounding property. He would like to see some nice quality buildings. Mr. O'Brien asked if they would be willing to withdraw and come back with scaled back roof. Mr. Ells asked about granting the variance subject to their scaling back the roof. Kevin Schultz doesn't believe the Board wants to get into becoming designers. Mr. O'Brien stated he would want to see the drawings before granting the variance.

Tom McGuirk motioned to approve seconded by Matt Shaw. Vic Lessard polled the Board regarding the criteria. Matt Shaw isn't sure about the value but he agrees with criteria. Bill O'Brien does not agree. Tom McGuirk agrees with criteria. Jack Lessard does not agree.

Vote: 1-2-2 (Vic Lessard and Matt Shaw abstained)

Vic Lessard called for another vote

Vote: 1-1-3 (Vic Lessard, Matt Shaw and Bill O'Brien) Petition does not pass

Two Minute Break

Bill O'Brien motioned to continue with 03-06 and 04-06. Jack Lessard seconded. Motion passed.

03-06 The petition of Lucier Holdings, LLC, through option holder Hess Corporation, for property located at 693 Lafayette Road seeking relief from Article V, Table II to add two 1 ½' x 6' product signs to the existing "Hess" freestanding sign supports and next to the existing "Hess Express" wall sign. This property is located at Map 126, Lot 25 in a B zone.

Peter Saari came forward with Russ Wells of Hess Corporation. Mr. Saari stated that two wall signs would be put on the building and two signs on the freestanding sign in front. Mr. Saari went through the criteria as presented in the petition. They think it would be better having the signs together rather than scattered all around.

Questions from the Board

Vic Lessard doesn't like the additions to the freestanding sign.

Comments from the audience

None

Back to Board

Jack Lessard asked about the freestanding sign. He believes the inside was left open for more visibility. The attached sign would bring the freestanding sign to 68 sq. when 50 sq. foot is allowed.

Tom McGuirk motioned to allow wall signs. Jack Lessard seconded. The Board agrees with the criteria.

Vote: 5-0

Motion passes

Matt Shaw motioned to accept the additional signs to the freestanding sign. Bill O'Brien seconded.

Vote: 2-1-2

Motion Does Not Pass

Mr. Wells asked if it would make a difference if the signs were moved to the top of the sign on the brick.

Jack Lessard motioned to approve the signs on the freestanding if moved onto the brick on top, allowing signs on both sides of the brick. Bill O'Brien seconded.

Vote: 5-0

Motion passes

04-06 The petition of Norman Boudreau, Rita Boudreau, Donna Boudreau-Hill, Dennis Boudreau and Daniel Boudreau, through option holder M.K. Ashworth, LLC, for property located at 8-12 Jones Avenue and 14-16 Jones Avenue seeking relief from Articles 1.3, 4.1.1, 8.2.1, 8.2.3, 8.2.4, 8.2.5 and 8.2.6 to replace existing structures with a seventeen (17) unit residential condominium. Three (3) existing lots to be combined to form a single lot. These properties are located at Map 282, Lots 119 and 120 in a BS zone.

Mr. O'Brien asked why only Lots 119 and 120 are mentioned in the petition but the reference is to three existing lots. Atty. Ells explained that there are three deeded lots of record and he can't explain why they have been combined for tax purposes.

Steve Ells and Kevin Derrivan came forward. David Lopatich is the architect. There are three deeded lots of record improved with five free standing structures containing eight cottage units. This proposal meets setbacks, parking and height requirements but does not meet the density requirement of a BS zone. Atty. Ells stated there is a proposed zoning ordinance change. He understands this is not presently the law. They are seeking a variance for relief from recreation area although they are close to meeting the required recreation area. They have the necessary parking spaces. He went through the criteria as presented in the petition. Two of the four property abutters are presently operated as parking lots.

Questions from the Board

Vic Lessard asked if they have a floor plan. Vic Lessard asked if they would be piling it. This will depend on the geotechnical. Bill O'Brien asked about the elevator. Mr. Lopatich explained the elevator core is at the northwest corner. At the southeast and northeast corner is a stair that connects up to all floors from grade. The second floor has six two-bedroom units, the third floor has six two-bedroom units, and the fourth floor has four two-bedroom units and one three-bedroom unit. The mechanical areas are at the roof. The elevator machine room is next to elevator on the first floor above ground. Mr. Lopatich confirmed that the duct work is all vertical, the separation between floors is roughly one foot, the parking area is open and does not have fencing and access to the building is a corridor on the outside perimeter. Additionally, you will be looking down at cars there is no platform.

Comments from the audience

Mike Callahan of 6 Jones Ave. came forward. He began by reading a letter from his mother. She believes her privacy will be violated. They will have to listen to people using elevator and stairways all time of night. She believes this will diminish the value of her property. Mr. Callahan also stated that values will diminish and is opposed to this petition. He is concerned about additional cars on the street and recreational area for children. He doesn't think proposed zoning ordinances should be considered. Zoning ordinances are put in place to protect abutters and he opposes. Vic Lessard asked if it is still a private road.

Charlie McKenzie came forward on behalf of his parents, owners of 21 Island Path. He is speaking against this project, because it is too big for the area. The surrounding properties are mostly one story. There are presently 19 Units on the street, density and cars will increase with an additional nine units. He doesn't believe there is a hardship; he believes the building is too big. He also expressed concerns about the proximity to the towns' parking lot which has some marsh area. He objects to this petition and thanked the Board for staying late.

Sheila Ewell came forward to speak on behalf of her parents. She is concerned about cars on the street and additional traffic. She also wonders about wetlands. She believes the project is too big.

Al Tamaro, co-owner of 21 Island Path came forward. He thanked the Board for staying late. He is against this project.

Neil Sullivan of 20 Jones Ave. came forward. He agrees with what has been said so far. He is also concerned about 70 additional people and the recreation area being on the roof with kids on the property. Another concern is the increase of noise from heating ventilation and elevators. The heating and condenser units will be on top. There are five small mechanical rooms. It is a hydraulic elevator which is not as noisy. He also questions the effect on water and sewer and electric. Vic Lessard stated this would have to go through the planning Board. This will have an effect on the sight line. He also asked about the trash issue. Mr. L. explained there will be a holding area then the association will move. Another concern is the water run off. His yard has flooding.

Mr. Tamaro of 21 Jones Ave came forward. He asked if the Town was notified as an abutter. The Town was notified, they did not respond.

Peter Sartanowicz of 18 Jones Ave. came forward. He expressed concerns about quality of vacations, extra cars and noise. He is opposed.

Pat Hardy of 4 Jones Ave came forward. She is opposed.

Susanne of 28 Jones Ave. came forward speaking for her mother. She expressed concerns about traffic flow and water on the street. Kids do play on the street; it is a narrow, dead end street which she thinks should be considered on a project of this side. She would like more answers. For example, how the issue of the water would be addressed. Another concern is noise from mechanicals and trash collection. The building is nice but it doesn't fit the area.

Deborah Gagnon of 25 Jones Ave. came forward. This street cannot handle the extra 37 vehicles. Signs posted are consistently ignored. Snow is a problem now; she wonders where the snow will go. She is opposed.

Chip Bailey of 27 Jones Ave. came forward. He has the same concerns as Ms. Gagnon. He is concerned about traffic and people turning around at the end of the street. Sewerage is also a concern. He is also concerned for kids' safety.

Back to Board

Steve Ells stated he heard the concerns. When he said it was consistent with the scale of the area, he was thinking of the Sands. This is a business seasonal zone. It is an allowed use. A hotel could be built with these dimensions without the need for relief. Fifty feet is an allowed height in this zone. Parking is contained on this site. He questions, if not here where. Atty. Ells went through the five criteria again.

Matt Shaw motioned to deny, Bill O'Brien seconded. Tom McGuirk will abstain. Jack Lessard does not agree; Matt Shaw doesn't agree this project is consistent with scale and density of area, and he questions whether it is a reasonable use. This is too big. Bill O'Brien doesn't think they satisfy all of criteria. He thinks it is an over intensification.

Vote: 4-0-1 (Tom McGuirk)

Petition Denied

The balance of the agenda is postponed to next week.